

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

F.I.G. Daufuskie 1, LLC,
Debtor.

Case No. 17-01143-jw

Chapter 11

**NOTICE OF MOTION TO
DISMISS BANKRUPTCY CASE AND
OPPORTUNITY FOR HEARING**

NOTICE OF MOTION TO DISMISS BANKRUPTCY CASE

F.I.G. Daufuskie 1, LLC, the debtor (“Debtor”) in this case has filed a motion with the Court to dismiss this bankruptcy case under 11 U.S.C. § 112(b). A copy of the motion accompanies this notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to dismiss the bankruptcy case, or you want the Court to consider your views on the motion to dismiss, then **within twenty-one (21) days of service of this notice**, you or your attorney must:

File with the Court a written response, return, or objection at:

1100 Laurel Street
Columbia, SC 29201

Responses, returns, or objections filed by an attorney must be electronically filed in ecf.scb.uscourts.gov.

If you mail your response, return, or objection to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

You must also send a copy to:

Julio E. Mendoza, Jr., Esquire
NEXSEN PRUET, LLC
P. O. Drawer 2426
Columbia, SC 29202

Attend the hearing scheduled to be heard on March 28, 2018 at 10:30 a.m. at the United States Bankruptcy Court, 145 King Street, Room 225, Charleston, South Carolina 29401.

If no response, return, and/or objection is timely filed and served, no hearing will be held on this motion to dismiss this bankruptcy case, except at the direction of the judge.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: February 21, 2018

/s/ Julio E. Mendoza, Jr.
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Attorneys for F.I.G. Daufuskie 1, LLC

DATE OF SERVICE: February 21, 2018

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

F.I.G. Daufuskie 1, LLC,
Debtor.

Case No. 17-01143-jw

Chapter 11

**MOTION TO DISMISS
BANKRUPTCY CASE**

F.I.G. Daufuskie 1, LLC, the debtor (the “Debtor”) and a debtor-in-possession under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. § 101, *et seq.*, the “Bankruptcy Code”), hereby moves pursuant to 11 U.S.C. §1112(b)(1) for the dismissal of this case. As summarized below, good cause exists for dismissal of the case, and dismissal is in the best interest of creditors and the estate.

In support of this motion, the Debtor would show to the Court that:

1. The Debtor filed its petition for relief under Chapter 11 of the Bankruptcy Code on March 7, 2017. The Debtor has acted during the course of this case as a debtor-in-possession pursuant to 11 U.S.C. §1107.

2. Three affiliates of the Debtor also filed petitions in this Court for relief under Chapter 11 on March 7, 2017 in this Court. The three affiliates are F.I.G. Beach Cottages, LLC (Case No. 17-01144-jw), F.I.G. Beach Club, LLC (Case No. 17-01145-jw) and Daufuskie Embarkment, LLC (Case No. 17-01146-jw). By Order entered on March 16, 2017, the four cases of the Debtor and its affiliates (collectively, the “Debtors”) were joined for joint administration, with this case, Case No. 17-01143-jw, serving as the lead case.

3. From the beginning of this case, the Debtors' operations have been dormant. The Debtors filed their cases in the hope and expectation of closing new financing that would enable them to make capital improvements to their property, pay operating expenses, resume operations, and otherwise proceed with their businesses and restructure their debt obligations. The post-petition financing never came to fruition.

4. At the time the Debtors filed their Chapter 11 petitions, their property was the subject of a foreclosure sale in Beaufort County, South Carolina, in a foreclosure action by Odeon Singapore Limited ("Odeon"), which held mortgages on, security interests in, and assignments of all, or substantially all, of the Debtors' assets. The Chapter 11 petitions were filed one day prior to the date on which the state court foreclosure sale would have become final.

5. Early in the case, when it became apparent that post-petition financing might not occur, the Debtors began exploring the possible sale of their assets. In this regard, Odeon agreed to a process which would allow the Debtors the opportunity to sell the property. As an essential term of the agreement, Odeon retained the right to credit bid purchase the property securing it under 11 U.S.C. § 363(k).

6. Although the goal of the parties was to arrange a sale of the Debtors' property to a third party purchaser for maximum value, Odeon agreed to an Asset Purchase Agreement for the purchase of the property, and to serve as the proposed buyer (the "Stalking Horse Buyer") for the Debtors' sale of the property. The Debtors agreed to employ a professional broker to market the assets and to solicit other offers for the property.

7. On June 2, 2017, the Debtors filed a motion (the "Sale Motion") seeking authorization to sell all, or substantially all, of their assets free and clear of liens, claims, encumbrances and other interests pursuant to 11 U.S.C. §§ 363(b)(1) and (f), and to assume and

assign executory contracts pursuant to 11 U.S.C. § 365. The Odeon Asset Purchase Agreement was attached to the Sale Motion. The Asset Purchase Agreement was subsequently amended and the amended document filed with the Court (as amended, the “APA”).

8. In conjunction with the Sale Motion, on June 2, 2017 the Debtors also filed a motion to establish bidding procedures and protections for the sale (the “Bidding Procedures Motion”), and for Odeon as the Stalking Horse Buyer. On June 28, 2017, the Court entered an Order approving and establishing bidding procedures for the proposed sale (the “Bidding Procedures Order”).

9. The Debtors employed Colliers International to serve as real estate advisor and broker for the sale of the property. This employment was authorized by the Court’s order entered on July 18, 2017.

10. Colliers International thoroughly and vigorously marketed the Debtors’ property, soliciting offers for its purchase, and generated what appears to have been substantial interest in the property. A potential purchaser filed an offer, with a proposed plan of reorganization; however, the offer and conditions in it were not in compliance with the terms of the Bidding Procedures Order, and numerous concerns about the offer were raised by the Debtors, Odeon and others. In the end, no offers were received in competition to the purchase terms offered by Odeon as the Stalking Horse Buyer.

11. The Court conducted a hearing on the Sale Motion on August 30, 2017. On September 25, 2017 the Court entered the Order Authorizing the Sale of Substantially All Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances, and Other Interests Pursuant to 11 U.S.C. § 363 (the “Sale Order”) authorizing and approving the sale of the assets to Odeon or its assigns pursuant to the terms of the APA.

12. Following the entry of the Sale Order, Odeon began work in preparation for its receipt of ownership of the property. On or about February 14, 2018, Odeon recorded the deeds and other documents for its acquisition of ownership of the Debtors' assets under the Sale Order and the APA. Ownership of the assets has now passed from the Debtors.

13. The Debtors no longer own any significant assets, and, as reflected in the monthly reports filed with the Court, they have no business operations, they have no revenue, and they have no sources or prospects of payment or realization of value.

14. There is nothing for the Debtors to propose for their creditors, nor are there any assets for administration in a Chapter 7 bankruptcy.

15. It should be noted, however, that the sale process utilized in this case is believed to have provided significant benefit to the parties in this case, and to residents and owners of other property on Daufuskie Island. The sale process allowed an opportunity to find another purchaser for the property, to take it and make positive use of it. Odeon's acquisition of the property places the property in ownership which will hopefully lead to better care of the property and responsiveness to its needs. The Debtors have lacked the ability to address the needs of the property for an extended period of time.

16. At this time, the continuation of this case, and of the other Debtors' cases, would serve no useful purpose and would only result in additional costs to creditors and the estate.

17. The Debtors are informed and believe that good and proper cause exists for the dismissal of this case and the other Debtors' cases at this time, and that such dismissal is in the best interest of the creditors and the estate.

WHEREFORE, the Debtor prays that the Court enter its order dismissing this case under 11 U.S.C. § 1112(b).

February 21, 2018

/s/ Julio E. Mendoza, Jr.

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In re:

F.I.G. Daufuskie 1, LLC,

Debtors.

Case No. 17-01143-jw
(*Lead – Joint Administration*)

Chapter 11

CERTIFICATE OF SERVICE

I, Jane E. Brown, of Nexsen Pruet, LLC, do hereby certify that a copy of the **NOTICE OF MOTION TO DISMISS BANKRUPTCY CASE AND OPPORTUNITY FOR HEARING** and **MOTION TO DISMISS BANKRUPTCY CASE** was served upon all parties in interest as shown on the mailing list attached hereto, by placing copies of the same in the United States Mail, first class postage prepaid, on the 21st day of February 2018, at Columbia, South Carolina.

/s/ Jane E. Brown

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